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SUMMARY MINUTES

Second Meeting in Negotiations Between the
United States and Italian Delegations for a
Treaty of Friendship, Commerce and Navigation

DEPARTMENT OF STATE A/CDC/MR
REVIEWED BY AP Smm DATE 9/19/83
RDS☐ or XDS☐ EXT. DATE ______
TS AUTH. ______ REASON(S) ______
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Approved: Walmsley

Participants:

For the United States: Messrs. Walmsley, Ainsworth, Setser.

For Italy: Messrs. Lombardo, Iannelli, Dall'Oglio, La Rosa, Sorrentino, Cattani, Ferrero, Simonis, Ippolito, De Rossi.

Time: 10:00 A.M. Thursday, September 18, 1947.

Place: Palazzo Chigi.

The United States negotiators provided copies of a revised treaty draft containing alterations set forth in recent instructions from their Government, and pointed out to the Italian negotiators the differences from the draft previously submitted. This revised draft was accepted by the Italian delegation as the basis for discussion.

The negotiators then proceeded to the examination of the treaty project article by article.

Article [illegible]

The Italian negotiators stated that the Article is generally acceptable, but that there were a few points upon which they wished to seek clarification. The first of these concerned the right to practice professions. They wished to except from the national treatment rule, in addition to the practice of law, the practice of the

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functions of notary and stock-broker. These officers in Italy perform public functions, and documents prepared by them are public documents. In reply to an inquiry, the Italian negotiators stated that public accounting does not constitute a public function, and that they wished to except only the three professions mentioned; namely, lawyers, notaries and stockbrokers. The Italian negotiators suggested that the words "except the professions which imply a public function" might be substituted for the words "except the practice of law" in Paragraph 2, subparagraph (a). The United States negotiators stated that they felt that it might be preferable to make specific reference to the professions to be excepted, but stated that they would refer the matter to their Government.

At this point the Italian negotiators brought up the subject of the recognition of professional degrees, referring to the preliminary discussion which had been had on the subject in Washington. They inquired whether the United States would agree to undertake at some definite time in the future the negotiation of an accord for the mutual recognition in each country of university degrees issued in the other. It was suggested that the following be added to Article I of the Treaty under consideration:

> "The High Contracting Parties will determine by a later agreement the conditions and limitations for the recognition in each of the two countries of degrees, diplomas and scholastic records issued in the other country, in order both to permit the practice of professions and the continuation of studies."

The American negotiators pointed out that the United States would encounter certain very serious difficulties in entering into such an agreement. The matter of the issuance of academic degrees and the regulation of the practice of professions is a function of the State governments, and that an effort to regulate by treaty would very probably raise political and constitutional questions. They felt that it would be undesirable to include in the treaty of friendship, commerce and navigation a definite commitment to

negotiate

negotiate such an agreement. They agreed, however, to refer the Italian proposal to their Government for consideration as to whether such a negotiation could be undertaken in the future, expressing the continued desire of the Italian Government to reach an agreement on the subject.

The Italian negotiators then inquired whether the United States Government interpreted the term "immigration laws" in paragraph 4 to include all laws and regulations affecting foreigners or merely those laws relating to the entry of immigrants. They stated that Italy really has no "immigration laws", but only police regulations relating to the sojourn of foreigners. They considered these very important for the control of elements which might be inimical to the interests of Italy, and wished to avoid making a commitment to accord favorable treatment to American nationals, which commitment could form the basis for a claim, under a most-favored-nation clause, for the same standard of treatment for the nationals of certain other countries.

The American negotiators referred to paragraph 1 as containing the general rule proposed regarding the sojourn of the nationals of one country in the other. It was pointed out that, since national treatment is not specified, a distinction between nationals and foreigners would be permissible provided the restrictions imposed were not inconsistent with the right "freely to travel and reside".

The Italian delegation was of the opinion, however, that the most satisfactory way to clarify the point and remove any doubt as to Italy's freedom to maintain the police regulations regarding foreigners would be by way of an agreed interpretation of the term "immigration laws". They stated that they would find acceptable an interpretation of the term as including laws and regulations relating to the sojourn of foreigners if incorporated in the minutes of the negotiation or in an exchange of letters. The American negotiators stated that they would give further consideration to this point and consult their Government with regard to the possible inclusion of some interpretative statement in the protocol to the treaty or elsewhere.

Article

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Article II

The Italian negotiators stated that the acceptability of Article II to their Government would depend to a considerable extent upon their ability to obtain American agreement to the amendment of certain provisions of Article XXIV. Reference was made to the special relationship existing between Italy and San Marino and Trieste, and to the fact that Italy would want to include exceptions for those states in paragraph (d) of Article XXIV.

The American negotiators stated that they had been authorized by their Government to agree to an exception from the most-favored-nation provisions of the Treaty for advantages granted by Italy to San Marino and the Free Territory of Trieste, and to include this exception in paragraph (d) of Article XXIV as follows:

> (d) Advantages now or hereafter accorded by the Italian Republic to San Marino or to the Free Territory of Trieste, or by the United States of America or its territories or possessions to one another, to the Canal Zone, to the Republic of Cuba or to the Republic of the Philippines.

The Italian negotiators then stated that they wished to add the State of Vatican City to the list of exceptions, explaining that under the Lateran Treaty of 1929, Italy is obligated to grant extraterritorial privileges to Vatican officials and to certain associations depending ~~upon~~ from the Holy See -- privileges which should not be granted generally to other states. They stated that they would prepare and hand to the American negotiators at a later date a list of the special concessions which they are required to grant to the State of Vatican City.

The Italian negotiators then proposed a further amendment of Article XXIV which would except from the rule of most-favored-nation treatment advantages that Italy might grant to colonies or to territories the administration of which might be entrusted to Italy by the United Nations. The following provision was submitted for consideration, with a view to its inclusion as a new sub-paragraph (e) in paragraph 3, Article XXIV:

(e) Advantages

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(e) Advantages which may be granted by either High Contracting Party to territories in which an international agreement may recognize that it has a particular interest.

The American negotiators stated that, since this proposal raised a number of rather complicated questions, they would like an opportunity to study the subject and discuss it at a later meeting.

The Italian negotiators stated that, if the amendments to Article XXIV which they had proposed were found acceptable by the American Government, they would have no further objection to Article II. They stated, however, that they considered paragraph 3 of the article to be lacking in reciprocity because of the proviso in the second sentence. They realized, they said, that the proviso was made necessary by constitutional considerations in the United States; but, while they did not wish to object to the provision, they wished to know whether the American negotiators could not give them some information regarding differences between the treatment which individual States gave their own corporations and the treatment which they gave to corporations chartered in other States. The American negotiators stated that, for the most part, Italian corporations in the United States would not be placed in an inferior position because of the standard of treatment proposed in the paragraph. They stated that there were certain limitations imposed by the Constitution upon the authority of a State, and that the practice of some States of retaliating against the unfavorable legislation of sister States had tended also to prevent serious inequalities of treatment. They stated that, in fact, most of the larger American corporations, many of which operated generally throughout the country without regard for State boundaries, were chartered in a few of the eastern States, particularly Delaware and New York.